



P.O. BOX 23223 Oakland, CA 94623
Phone (510) 419-0120 / Fax (510) 832-1456

LETTER OF TRANSMITTAL
SAS Foundations E2/T1 Project

KFM
2007

San/ric

Run Date 10-Dec-07
Time 1:56 PM

Dated: 2.6.08

To: Pedro Sanchez
Caltrans - SAS E2/T1 Foundation Project
333 Burma Road
Oakland CA 94607
Phone: 510-286-0538 Fax:

TRANSMITTAL No: KFM-TRN-000656

Rev: 00

Co/Job # 364-4347

Contract # 04-0120E4

Sub/Supplier:

Sub/Supplier No:

Subject: NOPC #06-062007 - Additional Information Requested by DRB

We are sending the following attached items:

☒ Attached

☐ Contract Plans/Specs

☐ Drawings/Calculations

☐ Change Order

☒ Copy of Letter

☐ Certs of Compl./Samples

☐ Schedule

☐ Progress Estimate Request

☐ Payroll Information

Special Provis. (SP) REF:
Standard Spec. (SS) REF:
RESUBMITTAL/SUPPLEMENTAL REF:

☐ Via Fax

☐ Working Drawings

☐ WQCP and/or Addenda

☐ Weekly Welding Reports

☐ CWR Procedure

Item	Date	Copies	Description	Pages
01	10-Dec-2007	1	Transmittal to DRB w/ additional information	

These are transmitted as checked below:

☐ For Approval

☒ For Your Use

☐ For Review/Comment

☐ As Requested

☐ Return For Correction

☐ For Information

Remarks:

CC:

Submitted By:

George Atkinson

(KFM Staff Member - Originator of Transmittal)

Checked & Sent By:

Contract Admin/DCS Staff



P.O. BOX 23223 Oakland, CA 94623
Phone (510) 419-0120 / Fax (510) 832-1456

LETTER OF TRANSMITTAL
SAS Foundations E2/T1 Project

Run Date 10-Dec-07
Time 1:53 PM

Dated: 12/10/07

TRANSMITTAL No: KFM-DRB-TRN-000007 Rev: 00

To: Warren Bullock
Dispute Review Board (DRB)
1122 Ferguson Road
Sebastopol CA 95472
Phone: 707-824-1874 Fax: 707-824-1874

Co/Job # 364-4347
Contract # 04-0120E4
Sub/Supplier:
Sub/Supplier No:

Subject: NOPC #6 -- Additional Information Furnished by TBS

Special Provis. (SP) REF:
Standard Spec. (SS) REF:
RESUBMITTAL/SUPPLEMENTAL REF:

We are sending the following attached items: ☒ Attached

☐ Via Fax

- | | | |
|--|--|---|
| <input type="checkbox"/> Contract Plans/Specs | <input type="checkbox"/> Certs of Compl./Samples | <input type="checkbox"/> Working Drawings |
| <input type="checkbox"/> Drawings/Calculations | <input type="checkbox"/> Schedule | <input type="checkbox"/> WQCP and/or Addenda |
| <input type="checkbox"/> Change Order | <input type="checkbox"/> Progress Estimate Request | <input type="checkbox"/> Weekly Welding Reports |
| <input checked="" type="checkbox"/> Copy of Letter | <input type="checkbox"/> Payroll Information | <input type="checkbox"/> CWR Procedure |

Item	Date	Copies	Description	Pages
01	10-Dec-2007	1	TBS Letter Dated 12/10/07	

These are transmitted as checked below:

- | | | |
|--|---|--|
| <input type="checkbox"/> For Approval | <input type="checkbox"/> For Review/Comment | <input type="checkbox"/> Return For Correction |
| <input checked="" type="checkbox"/> For Your Use | <input type="checkbox"/> As Requested | <input type="checkbox"/> For Information |

Remarks:

Please find attached information requested by DRB. Additional copies sent to R. Lewis and R. Maasberg under separate cover.

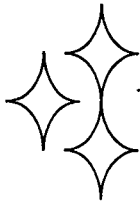
A copy of this information will be furnished to Caltrans by Transmittal on 12/11/07.

CC:

Submitted By:

George Atkinson

(KFM Staff Member - Originator of Transmittal)



TRANS BAY STEEL, CORP.

1025 KAISER ROAD, NAPA, CA 94558
TELEPHONE: (707)259-0777 FAX: (707)259-1072

December 10, 2007

Kiewit/FCI/Manson A JV
P.O. Box 23223
Oakland, Ca. 94623

Reference: E2/T1 Foundations # 04-0120E4

Subject: DRB Request for Additional Information

Attn: George Atkinson

George,

Attached are the following documents requested by the DRB members as additional information:

1. Fourteen Statements supporting Welder Training which represents a sampling and is not the total of the statements obtainable.
2. EEOC Consent Decree
3. Napa Register Article Explaining Events of EEOC Actions



William M. Kavicky
Trans Bay Steel Corporation

cc. Dan Proctor



TRANS BAY STEEL, CORP.

1025 KAISER ROAD, NAPA, CA 94558

TELEPHONE: (707)259-0777 FAX: (707)259-1072

December 6, 2007

RE: STATEMENT – DAVE L. JOHNSON

I started at Trans Bay Steel Corporation in August of 1996. I was trained on the job by Larry Johnson in all positions and the sub-arc welding process for at least 2 weeks. If I remember correctly, Larry Johnson also had trained Dave Rutledge when he hired in on the San Mateo Bridge Project.

I trained Jason Thomas on Boom 5 round seams during the Benicia Bridge job.

After passing my test on the Hinge Pipe Beams project, I trained Uthit Suwanwiang, these welders had already been trained on long seams. I saw Caltrans inspectors observing these processes.

In the White Bay I trained welders on long seams for swing shift.

On the fracture critical procedure Caltrans Inspection would ask me who I was training.

During E2-T1 as I recall I did not see Caltrans inspectors very often.

Sincerely,

Dave L. Johnson

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SOLANO

SS.

On 12-10-2007 before me,

JACK J. MILLER

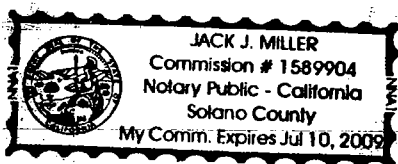
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

DAVE L. JOHNSON

Name(s) of Signer(s)

☐ personally known to me



☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

DOCUMENT SIGNATURE PAGE
EMBOSSSED WITH NOTARY SEAL

Place Notary Seal Above

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: TRANS BAY STEEL CORP

Document Date: 12-6-2007 Number of Pages: ONE

Signer(s) Other Than Named Above: NONE

Capacity(ies) Claimed by Signer(s)

Signer's Name: DAVE L JOHNSON

- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here



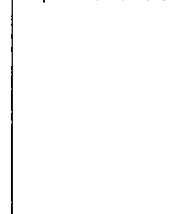
Signer's Name: _____

- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here



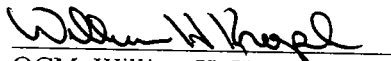


TRANS BAY STEEL, CORP.

1025 KAISER ROAD, NAPA, CA 94558
TELEPHONE: (707)259-0777 FAX: (707)259-1072

The following list includes but is not limited to persons I escorted through Trans Bay Steel either in a group or individually on one or more occasions.

Alfredo Acuna	MACTEC
Jim Bowers	MACTEC
Rob Brown	MACTEC
Kevin Carpenter	MACTEC
Bruce Chapman	MACTEC
Doug Coe	CALTRANS
Fred Coggans	CALTRANS
Mike Forder	MACTEC
Jason Gramlick	CALTRANS
Craig Hager	MACTEC
Vendatesh Iyer	MACTEC
Mahlon Lindenmuth	MACTEC
Bert Madison	MACTEC
Brian Maroney	CALTRANS
Ricardo Medina	MACTEC
Jim Merrill	MACTEC
Robert Mertz	MACTEC
Art Peterson	MACTEC
Pete Siegenthaler	CALTRANS
Mark Vilcheck	CALTRANS
Bill West	MAC
Doug Williams	TYLYN
Mark Woods	CALTRANS
David Wu	CALTRANS


QCM William H. Kroplin

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SOLANO

SS.

On 12-16-2007 before me,

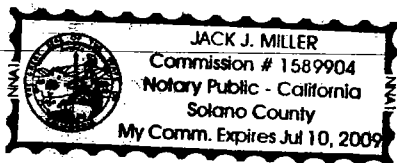
JACK J. MILLER

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

WILLIAM H. KROPLIN

Name(s) of Signer(s)



DOCUMENT SIGNATURE PAGE
EMBOSSSED WITH NOTARY SEAL

☐ personally known to me

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: TRANS BAY STEEL CORP

Document Date: 12-16-2007 Number of Pages: TWO

Signer(s) Other Than Named Above: NONE

Capacity(ies) Claimed by Signer(s)

Signer's Name: WILLIAM H. KROPLIN

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

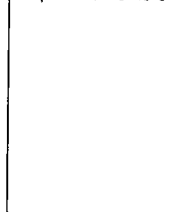


Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here





TRANS BAY STEEL, CORP.

1025 KAISER ROAD, NAPA, CA 94558

TELEPHONE: (707)259-0777 FAX: (707)259-1072

December 6, 2007

RE: STATEMENT – WILLIAM KROPLIN IV

I started as a burner. I got into welding around 2002 on the Benicia Bridge. I was trained by Glen Couch on swing shift for submerged arc during the Benicia Bridge on the 3 wire system and round seams for a couple of months.

After testing, I went to production welding on my own.

I starting training Suphap Arthyotha, Sanong Noikanya, Dith Panbunkoed, Anirut Samranchit, Anusak Sodchuen, Thoogkhon Somsrimee, Surchai Surasena, Saksit Yothakhun on swing shift for round seams. The Thai welders at this time were qualified to run long seams, (training was done for long seams on day shift)

I trained Erin Garrison on Boom 2 for round seams for E2-T1 project until job was terminated.

Sincerely,

William H. Kroplin IV

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SOLANO

SS.

On 12-10-2007

Date

before me,

JACK J. MILLER

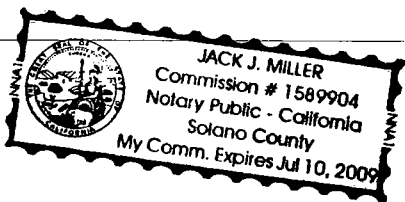
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

WILLIAM H. KROPLIN IV

Name(s) of Signer(s)

☐ personally known to me



DOCUMENT SIGNATURE PAGE
EMBOSSSED WITH NOTARY SEAL

Place Notary Seal Above

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

TRANS BAY STREET

Document Date:

12-6-2007

Number of Pages:

ONE

Signer(s) Other Than Named Above:

NONE

Capacity(ies) Claimed by Signer(s)

Signer's Name: WILLIAM H. KROPLIN IV

☒ Individual

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here



Signer's Name: _____

☐ Individual

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

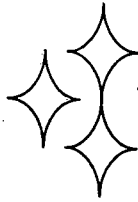
☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here





TRANS BAY STEEL, CORP.

1025 KAISER ROAD, NAPA, CA 94558

TELEPHONE: (707)259-0777 FAX: (707)259-1072

December 6, 2007

RE: STATEMENT – Scott K. Martel

I started at Trans Bay Steel Corporation in Sept. 2005. I was hired as a Certified Weld Inspector for Bay Bridge Project.

I saw certified welders training trainees on long seams ID & OD, round seams ID & OD, I witnessed welders air arcing long seams and round seams,

During the training of welders I checked parameters at every location approximately every 30 minutes while journeymen welder was with trainee.

I witnessed trainees taking tests. Checked parameters, witnessed root passes, fill passes, and cover passes on qualification test pieces.

Caltrans checked the same operations I was checking on welder trainees during the training and testing period.

Sincerely

Scott K. Martel



TRANS BAY STEEL, CORP.

1025 KAISER ROAD, NAPA, CA 94558
TELEPHONE: (707)259-0777 FAX: (707)259-1072

December 6, 2007

RE: STATEMENT – ARTHUR C. MURPHY

I started at Trans Bay Steel Corporation in March 1998 during the San Mateo Bridge project. I was a qualified welder in all positions from my previous job. I tested for Trans Bay and passed all my tests in all positions. I passed my submerged arc qualification.

Since I have worked at Trans Bay, I have trained other employees on round seams and long seams using the submerged arc welding process the entire time.

I have been graveyard foreman and trained everyone on my shift for at least 2 weeks with follow-up checks continuously.

I can remember training Surchai Sursena, Saduak Wiryasanti, Mairo Flores, Jose Flores, Garrett Jones during the Benicia Bridge, Richmond San Rafael and E2/T1 job.

During the Pipe Hinge Beam project I trained Dave Rutledge for round seams and Hector Lopez for long seams for the prequalification procedure. I have also trained Oudalay Chindavong, Bob Day, Leo Hidalgo and Dave Johnson.

.Caltrans Inspection was present when I performed this training. On E2-T1 & HPBCaltrans QA watched me train employees and asked me what I was doing, I told them.

I was trained by Kaiser Steel Corporation the same way 30 years ago.

Sincerely,

Arthur C. Murphy

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SOLANO

SS.

JACK J. MILLER

On 12-10-2007

Date

before me,

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

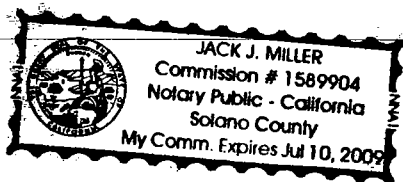
personally appeared

ARTHUR

C. MURPHY

Name(s) of Signer(s)

☐ personally known to me



DOCUMENT SIGNATURE PAGE
EMBOSSSED WITH NOTARY SEAL

Place Notary Seal Above

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~they executed the same in his/~~her~~their authorized capacity(ies), and that by his/~~her~~their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

TRANS BAY STEEL CORP

Document Date:

12-6-2007

Number of Pages:

ONE

Signer(s) Other Than Named Above:

NONE

Capacity(ies) Claimed by Signer(s)

Signer's Name:

ARTHUR C. MURPHY

☒ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

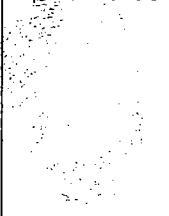
☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here



Signer's Name:

☐ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

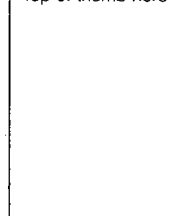
☐ Guardian or Conservator

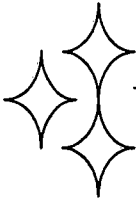
☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here





TRANS BAY STEEL, CORP.

1025 KAISER ROAD, NAPA, CA 94558
TELEPHONE: (707)259-0777 FAX: (707)259-1072

December 6, 2007

RE: STATEMENT – BRIAN PETERSEN

I was hired at Trans Bay Steel Corporation in September, 2005 as a helper.

After a short period of time I was trained as a submerged arc welder in White Bay by Dan Petersen on inside long seams for a about a month. I was also trained on round seams in Bay 1 and then given the welding qualification test. After passing, I went into production welding by myself.

During my training and testing I saw Caltrans inspectors present.

My job also included maintenance so at that time I was not welding.

Sincerely,


Brian Petersen

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

SOLANO

SS.

On

12-10-2007

before me,

JACK J. MILLER

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally

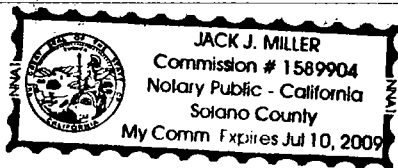
appeared

BRIAN

PETERSON

Name(s) of Signer(s)

☐ personally known to me



DOCUMENT SIGNATURE PAGE
EMBOSSSED WITH NOTARY SEAL

Place Notary Seal Above

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

TRANS BAY STEEL CORP

Document Date:

12-6-2007

Number of Pages:

ONE

Signer(s) Other Than Named Above:

NONE

Capacity(ies) Claimed by Signer(s)

Signer's Name:

BRIAN PETERSON

☒ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

Signer's Name:

☐ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here



TRANS BAY STEEL, CORP.

1025 KAISER ROAD, NAPA, CA 94558

TELEPHONE: (707)259-0777 FAX: (707)259-1072

December 6, 2007

RE: STATEMENT – HOWARD D. PETERSEN

I was hired at Trans Bay Steel Corporation in April 1998 for San Mateo Bridge as a welder. I had previous experience at the Kaiser Steel Vallejo Yard with hand held submerged-arc. I was trained on the job.

During the San Mateo project I was trained on the job by Jim Bridewell on Boom 4 for long seams, Boom 2 for round seams ID & OD for approximately 1 to 2 weeks on each location.

I was then given my qualification test. After passing, I was welding on mostly long seams.

During the Benecia Bridge Project and E2-T1, I trained numerous welders in White Bay & Bay 1 for long seams ID & OD:

Rob Coleman
Mike Willis
Brian Petersen
Surachai Surasena
Thongkhon Somsrimee
Del Anderson
Carlos Perez
Jason Thomas
Erin Garrison
Garrett Jones

During this period I was leadman for White Bay – training and production.

Caltrans inspectors also witnessed these operations including Robert Mertz.

Sincerely,

Howard D. Petersen

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SOLANO

} ss.

On 12-10-2007, before me,

JACK J. MILLER

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

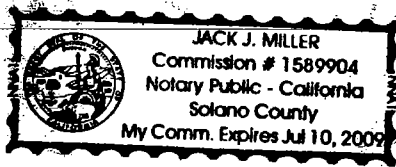
personally appeared

HOWARD

D. PETERSON

Name(s) of Signer(s)

☐ personally known to me



DOCUMENT SIGNATURE PAGE
EMBOSSSED WITH NOTARY SEAL

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: TRANSBAY STEEL CORP

Document Date: 12-6-2007 Number of Pages: ONE

Signer(s) Other Than Named Above: NONE

Capacity(ies) Claimed by Signer(s)

Signer's Name: HOWARD D. PETERSON

☒ Individual

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Individual

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here



TRANS BAY STEEL, CORP.

1025 KAISER ROAD, NAPA, CA 94558
TELEPHONE: (707)259-0777 FAX: (707)259-1072

December 6, 2007

RE: STATEMENT – S ATHAPORN PORNSRISIRSAK

I started at Trans Bay Steel Corporation in January 2006 as a welder. I was trained by Oudalay Chindavong in Bay 1 on Boom 4 long seams ID & OD for at least a week or so and then passed welder qualification test. I was sent to Bay 1 with Suphan Buakham for production welding. Caltrans was watching while I was training with Oudalay and when I tested on and off.

I then trained Uthit Suwanwiang and a few others, I don't remember all the names on long seams. Later, went to White Bay for long seam welding and then back to Bay 1 & 2 for training on grout beads with Mark Pacheco.

After my training on grout beads I trained Suphap Arthyotha for grout rings.

I saw Caltrans during these operations.

Sincerely,

SATHAPORN PORNSRISIRSAK
Sathaporn Pornsrirsak

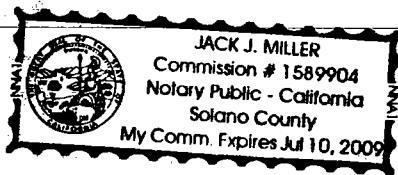
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SOLANO } ss.

On 12-10-2007 before me, JACK J. MILLER
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared SATHAPORN PORNISRIRISAK
Name(s) of Signer(s)

☐ personally known to me



DOCUMENT SIGNATURE PAGE
EMBOSSSED WITH NOTARY SEAL

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: TRANS BAY STEEL CORP

Document Date: 12-6-2007 Number of Pages: ONE

Signer(s) Other Than Named Above: NONE

Capacity(ies) Claimed by Signer(s)

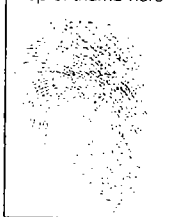
Signer's Name: SATHAPORN PORNISRIRISAK

☒ Individual

- ☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

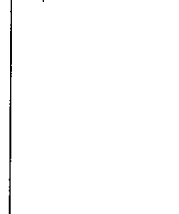


Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here





TRANS BAY STEEL, CORP.

1025 KAISER ROAD, NAPA, CA 94558

TELEPHONE: (707)259-0777 FAX: (707)259-1072

December 6, 2007

RE: STATEMENT – SANONG NOIKANYA

I started at Trans Bay Steel Corporation in November 2002 as a welder on the Benicia Bridge project. I was trained by Surachai Surasena in White Bay for 2 weeks and passed the welder qualification test.

I worked in White Bay for a few months and was transferred to assist in Burning Department and then back to White Bay until the finish of the E2-T1 project.

Sincerely,

SANONG NOIKANYA

Sanong Noikanya

1 Anna Y. Park, SBN 164242
2 U.S. EQUAL EMPLOYMENT
3 OPPORTUNITY COMMISSION
4 255 East Temple Street, Fourth Floor
5 Los Angeles, CA 90012
6 Telephone: (213) 894-1080
7 Facsimile: (213) 894-1301
8 E-Mail: lado.legal@eeoc.gov

9 Attorneys for Plaintiff,

10 U.S. EQUAL EMPLOYMENT
11 OPPORTUNITY COMMISSION

12 Douglas N. Smith, SBN 78233
13 DOUGLAS N. SMITH, INC.
14 1207 Coombs Street
15 P.O. Box 760
16 Napa, CA 94559-0760
17 Telephone: (707) 257-8935
18 Facsimile: (707) 257-8937

19 Attorney for Defendant,

20 TRANS BAY STEEL CORPORATION

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA**

23 U.S. EQUAL EMPLOYMENT
24 OPPORTUNITY COMMISSION,

25 Plaintiff

26 v.

27 TRANS BAY STEEL CORPORATION
28 AND DOES 1-10 INCLUSIVELY,
Defendant(s).

Case No.:

CV 06-7766 CAS(JTLX)

[PROPOSED] CONSENT DECREE

I.

INTRODUCTION

Plaintiff U.S. Equal Employment Opportunity Commission (EEOC) filed a federal action against Trans Bay Steel Corporation, ("Defendant" or "Trans Bay"), entitled *EEOC v. Trans Bay Steel Corporation and Does 1-10 Inclusively*, Case

Note underlined sections
for DRB attention.

1 Number CV 06-07766 CAS (JTLx), to address alleged unlawful employment
2 practices. Specifically, the EEOC alleged that Trans Bay subjected 48 Thai workers
3 to national origin discrimination. The Defendant denies all of the allegations.
4 The EEOC and Trans Bay hereby stipulate and agree to entry of this Consent
5 Decree ("Decree") to resolve the Commission's Complaint under Title VII of the
6 Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq. ("Title
7 VII"), and Title I of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a, in the
8 public interest and to the benefit of the aggrieved claimants identified above.

9
10 **II.**

11 **PURPOSES OF THIS DECREE**

12 A. In the interest of resolving this matter, and as a result of having engaged in
13 comprehensive settlement negotiations, the EEOC and Trans Bay (hereinafter
14 collectively referred to as "the Parties") have agreed that this action should be
15 finally resolved by entry of this Decree. This Decree shall be binding on and
16 enforceable against the parties, including Defendant's officers, directors, agents,
17 successors, and assigns.

18 B. The Parties have entered into this Decree for the following purposes:

- 19 1. To provide agreed upon monetary and injunctive relief;
- 20 2. To ensure that Trans Bay's employment practices comply with federal
21 law;
- 22 3. To ensure work environment(s) free from discrimination due to
23 national origin;
- 24 4. To ensure that Trans Bay maintains a workforce free of discrimination
25 so as to allow employees the equal employment opportunities required under Title
26 VII;
- 27 5. To ensure that employees are protected from retaliation for engaging
28 in a protected activity; and

For purpose of this decree, the parties believe and aver that this resolution, upon court approval, will serve to benefit the public interest, as well as the claimants for whom relief is provided under the decree, and Trans Bay agrees to this decree in accord with the mandates, parameters, purposes and functions of Title VII of the Civil Rights Act.

III.

JURISDICTION

The Court has jurisdiction over the parties and the subject matter of this lawsuit, pursuant to 28 U.S.C. Sections 451, 1331, 1337, 1343, 1367 and 42 U.S.C. Section 2000(e)(5). The Court shall retain jurisdiction of this action for the duration of this Decree for the purposes of entering all orders, judgments and decrees that may be necessary to implement the terms and conditions specified herein.

The Plaintiff in this action is the U.S. Equal Employment Opportunity Commission, which represents the public interest.

The Defendant, which is subject to the jurisdiction of this Court and to the terms and obligations of this Decree, is Trans Bay Steel Corporation, its predecessors, successors, officers, directors, agents, and assigns.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IV.

FINDINGS

Having examined the terms and provisions of this Decree and based on the pleadings, record and stipulation of the Parties, the Court finds the following:

A. The Court has jurisdiction over the Parties and the subject matter of this action. The Complaint asserts claims that, if proven, would authorize the Court to grant the relief set forth in this Decree.

B. The terms and provisions of this Decree are adequate, fair, reasonable, equitable and just, and adequately protects the interests of those claimants eligible for relief in this case. The entry of this Decree will further the objectives of Title VII and will be in the best interests of the Parties and claimants.

V.

RESOLUTION OF CLAIMS

A. The Parties agree that this Decree resolves all claims that EEOC alleged under Title VII in its complaint filed on Dec. 7, 2006 in the United States District Court, Central District of California entitled *EEOC v. Trans Bay Steel Corporation and Does 1-10 inclusively*, with Case Number CV 06-07766 CAS (JTLx), against defendant Trans Bay. The Decree constitutes a complete resolution of all claims that EEOC was authorized to assert against Trans Bay, its officers, directors and individual owners based upon the administrative charges underlying this lawsuit.

B. Nothing in this Decree shall be construed to preclude the EEOC from enforcing this Decree pursuant to its terms in the event the defendant has failed to comply with any provisions of the Decree.

~~C. Nothing in this Decree shall be construed to limit or to reduce Trans Bay's obligations to comply fully with Title VII or any other federal employment statute.~~

D. This Decree in no way affects the EEOC's right to bring, process, investigate, or litigate further charges or claims it may have against defendants

1 "Does 1-10," which include entities described as owners, agents, servants and
2 employees, related to the discrimination alleged in this case.

3 4 VI.

5 DURATION AND EFFECTIVE DATE OF DECREE

6 A. The provisions and agreements contained herein are effective immediately
7 upon the date that this Decree is entered by the Court ("Effective Date").

8 B. This Decree shall remain in effect for three (3) years from the Effective Date.
9

10 VII.

11 DEFINITION

12 The Plaintiff in this action is the U.S. Equal Employment Opportunity
13 Commission ("EEOC" or "Commission").

14 The Defendant in this action is Trans Bay Steel Corporation, its officers,
15 directors, assigns, successors-in-interest, and individual owners based upon the
16 administrative charges underlying this lawsuit ("Trans Bay" or "Defendant").

17 The "Project" is defined as the E2T1 Bay Bridge Project that is expected to
18 last approximately twelve (12) to fifteen (15) months, commencing November,
19 2005.

20 The "Claimant(s)" are the forty-eight (48) Thai welders who have been
21 identified by the EEOC as being members of the class of individuals whose
22 interests are represented by the EEOC in this action.

23 An "Employee" is defined as a claimant who wishes to work for Trans Bay
24 during the E2T1 Bay Bridge Project. This definition does not include the original
25 ~~nine (9) claimants that previously worked for Trans Bay. Each of those individuals~~
26 ~~shall be referred to as a "Former Employee."~~

27 A "Former Employee" is defined as the any of the original nine (9)
28 Claimants who previously worked at Trans Bay.

1 A "Non-Employee" is a claimant who opts not to work for Trans Bay on the
2 Project.

3 4 VIII.

5 MODIFICATION AND SEVERABILITY

6 A. This Decree constitutes the complete understanding of the parties with
7 respect to the matters contained herein. No waiver, modification or amendment of
8 any provision of this Decree will be effective unless made in writing and signed by
9 an authorized representative of each of the parties.

10 B. If one or more provisions of the Decree are rendered unlawful or
11 unenforceable, the parties shall make good faith efforts to agree upon appropriate
12 amendments to this Decree in order to effectuate the purposes of the Decree. In
13 any event, the remaining provisions will remain in full force and effect unless the
14 purposes of the Decree cannot, despite the parties' best efforts, be achieved.

15 C. By mutual agreement of the parties, this Decree may be amended or modified
16 in the interests of justice and fairness in order to effectuate the provisions of this
17 Decree.

18 19 IX.

20 COMPLIANCE AND DECREE ENFORCEMENT

21 A. The parties expressly agree that if the Commission has reason to believe that
22 Trans Bay has failed to comply with any provision of this Consent Decree, the
23 Commission may bring an action before this Court to enforce the Decree. Prior to
24 initiating such action, the Commission will notify Trans Bay and its legal counsel
25 of record, in writing, of the nature of the dispute. This notice shall specify the
26 particular provision(s) that the Commission believes Trans Bay has breached.
27 Absent a showing by either party that the delay will cause irreparable harm, Trans
28 Bay shall have thirty (30) days to attempt to resolve or cure the breach.

1 B. The parties agree to cooperate with each other and use their best efforts to
2 resolve any dispute referenced in the EEOC notice.
3 C. After thirty (30) days have passed with no resolution or agreement to extend
4 ~~the time further, the Commission may petition this Court for resolution of the~~
5 ~~dispute, seeking all available relief, including an extension of the term of the~~
6 Decree for such period of time as Trans Bay is shown to be in breach of the Decree
7 and the Commission's costs and attorneys' fees incurred in securing compliance
8 with the Decree.
9

10 **X.**

11 **VICTIM SPECIFIC RELIEF**

12 A. Instatement and Monetary Relief

13 In exchange for the EEOC entering this Consent Decree, Trans Bay agrees to
14 hire twenty-two (22) of the (48) Claimants as Employees that the EEOC has
15 determined to be members of the identified class under the terms herein agreed and
16 ordered, for the duration of the Project. The remainder of the Claimants have opted
17 to be Non-Employees as defined herein.

18 1. Employees

19 a. Each Employee shall be paid a minimum of \$12.00 per hour and
20 be eligible for promotion and pay increases like any other non-
21 Thai workers at Trans Bay. Trans Bay agrees to continue to
22 employ the Employees beyond the date of completion of the
23 Project to the extent practical in light of its then need for
24 workers.

25 b. In addition to offering jobs, Defendant agrees to pay \$5,000 to
26 each Employee, in settlement of his claim for personal injury.

27 c. The parties acknowledge that the 22 workers have commenced
28 working for Trans Bay prior to the entry of this Decree and that

Trans Bay has commenced meeting its obligation under this Decree prior to being approved by the Court.

- d. For each Employee, Trans Bay shall: (1) pay for the first thirteen (13) employees employed by Trans Bay a transportation and relocation reimbursement of \$1,000.00 per employee; (2) pay for subsequent employees employed by Trans Bay actual relocation expenses up to \$1,000.00 upon proof of proper receipt of said expense; (3) pay for all Employees with families a lodging stipend for a period of six (6) months; (4) sign a lease or a guarantee for a lease for all the Employees; (5) pay for all Employees the security deposit, including first and deposit of last months' rent, if required; (6) provide for all Employees' training to become certified CalTrans welders; and (7) pay tuition and books at Napa Community College in the area of welding, so long as the Employee meets the minimum requirements to become a Napa Community College student.
- e. Trans Bay had paid or will pay the first two months' rent on behalf of each of the employees, currently without a family, who come to Trans Bay, provided that the employees house themselves four (4) single employees to a unit. Thereafter, each of such employees shall be responsible for 100% of his rent. The Employees shall pay their rent directly to the landlord on or before the first day of each month. Trans Bay shall remain on the lease or rental agreement as an additional tenant or "guarantor" (as required by the landlord) for up to six (6) months, to help ensure the employee's housing. The Employees will be added as co-signers to the lease agreement. However, any employee may, at any time, choose to move into any

1 accommodation of their choosing at their own expense.

2 Employees who hereinafter decide to move families in shall be
3 responsible for their own housing arrangements.

4 f. Trans Bay has paid or will pay a housing stipend for (8) eight
5 Employees currently with families in the amount of \$500.00 per
6 month for a period of six (6) months from the time they start
7 work for Trans Bay. The balance of their rent shall be paid
8 directly to the landlord on or before the first day of each month.

9 g. If an employee fails to pay his portion of the rent to the landlord
10 in a timely fashion, and Trans Bay becomes liable to pay the
11 rent, Trans Bay may deduct the rent from the employee's \$5,000
12 payment to be paid to each of them by Trans Bay under this
13 Decree. Trans Bay shall give written notice to the EEOC and to
14 the Employee or trainee prior to taking any such action. The
15 Employee or trainee shall be given a ten (10) day grace period
16 to cure. Trans Bay agrees that this provision shall be the sole
17 basis for recovering from Employees (other than Former
18 Employees) the amount of unpaid rent for which Trans Bay
19 becomes liable.

20 h. Any monies paid by Trans Bay over and above wages for the
21 Employees shall be considered as compensation for the
22 Employee's personal injury.

23 2. Non-Employees

24 To each of the Non-Employees, Trans Bay shall:

25 a. Pay \$7,500 as compensation for the Non-Employee's personal
26 injury within five (5) days of the Effective Date;

27 ///

28 ///

- 1 b. Pay \$300 as a stipend for tuition and books for training as a
2 welder within five (5) days of the Effective Date;
3 c. Offer first right of refusal to any Non-Employee for a welder
4 position at Trans Bay to the extent practicable after the
5 expiration of the Project.
6 (1) If a Non-Employee is interested in working for Trans Bay
7 at a future time and is able to work, the Non-Employee shall
8 inform the EEOC of such a desire.
9 (2) A list of the Non-Employees shall be given to Trans Bay.
10 Trans Bay will make best efforts to employ any of the Non-
11 Employees in the future in order of date and time received by
12 Trans Bay.
13 (3) Trans Bay shall inform the EEOC if any openings for
14 welders during the term of the Decree.
15 (4) Trans Bay shall notify the first ten (10) potential claimant
16 employees by telephone of the job opening and shall confirm by
17 fax, e-mail or letter to the individual and the EEOC.
18 (5) The prospective claimant employees shall contact Trans
19 Bay by phone to acknowledge receipt of the offer of
20 employment and their intent to accept the position within 48
21 hours of the telephone notification or attempt and shall confirm
22 their intent to Trans Bay. The first employee to accept the
23 position shall be hired.
24 (6) If Trans Bay is unable to reach any or all of the first ten
25 (10) prospective employees, or if a prospective employee does
26 not, within 48 hours, acknowledge receipt of the offer of
27 employment and accept same, the next ten (10) prospective
28 employees will be notified.

(7) The first employee to accept the open position shall become an employee.

(8) Once a Non-Employee claimant becomes an employee, said employee shall become entitled to the same starting pay and training as did the first 13 claimants to become employed with Trans Bay. However, said claimants shall be entirely responsible for their own transportation, relocation and housing expenses.

(9) The Non-Employees need not return any of the monies received under this Decree if he applies for and is employed under this Section (X)(A)(2)(c)(9).

(10) All monies paid under this Decree over and above the wages shall be considered compensation for the Non-Employees' personal injury.

3. Former Employees

a. The parties acknowledge that there are nine (9) Former Employees that previously worked for Trans Bay. The parties further acknowledge that five (5) of the nine (9) Former Employees shall not be eligible for the aforementioned \$5,000.00 payment because defendant previously voluntarily provided this payment to them. The Former Employees are: (1) Sanong Noikanya, (2) Thongkhon Somsrimee, (3) Dith Panbunkoed, (4) Suphap Artyotha, (5) Anusak Sodchuen, (6) Rungrot Siribun, (7) Saksit Yothakhun, (8) Surachai Surasena, and (9) Anirut Samranchit. Of the former employees, Suphap Artyotha, Dith Panbunkoed, Rungrot Siribun, and Anirut Samranchit did not receive the \$5,000.00 payment during the time of their prior employment. Therefore, they each shall be entitled to receive a \$5,000.00 payment as part of his settlement. Payment shall

1 be made within five (5) days of the Effective Date. Monies paid under
2 this Section shall be deemed as compensation to the Former
3 Employees for their personal injury.

4 b. Trans Bay shall ensure that the Former Employees be allowed to
5 continue to work for Trans Bay or any other employer, including
6 sponsorship for H2B visas, where appropriate. Trans Bay shall
7 facilitate the Former Employee's ability to continue to work in the
8 United States if he chooses to transfer to another company.

9 c. It is understood by the parties that these workers are considered
10 "key" employees due to their previous experience, skill and ability to
11 help train the new Employees who may be less skilled and who may
12 have difficulty in language issues training with non-Thai speaking
13 instructors.

14 d. The Former Employees shall be paid an increased wage of
15 \$18.80 per hour and be given either the title of supervisors or working
16 leads during their employment at Trans Bay when the positions
17 become available and based upon the employee's skills and leadership
18 abilities.

19 e. In addition to the foregoing, the Former Employees shall also be
20 entitled to the following:

- 21 (1) \$1,000 as relocation costs;
22 (2) Training to become current Cal Trans certified welder;
23 (3) Monies for tuition and books for eligible employees at
24 Napa Community College in the area of welding;
25 (4) ~~Trans Bay shall sign a Lease/Rental Agreement or~~
26 ~~Guarantee for lodging as set forth above for other single~~
27 ~~employees;~~

1 (5) Trans Bay shall pay the security deposit, including first
2 and deposit of last months' rent if required by landlord;

3 (6) Trans Bay shall pay or has paid for two months rent
4 calculated based upon having four occupants to a two bedroom;

5 (7) Trans Bay may pay additional relocation costs for the
6 Former Employees upon prior notification through the EEOC.

7 (8) Any of the Former Employees can request that additional
8 relocation-related costs be reimbursed by submitting them to the
9 EEOC or Trans Bay prior to incurring the cost. Trans Bay or
10 the EEOC shall inform the Former Employee within five (5)
11 days of the request whether the additional relocation cost will be
12 reimbursed. Trans Bay has already agreed to pay for the added
13 cost of shipping a vehicle across state lines and for the cost of
14 rental vehicles to facilitate the relocation of the nine (9) Former
15 Employees.

16 4. Sponsorship

17 Trans Bay agrees to provide whatever non-financial assistance which may be
18 necessary and within its reasonable ability, for immigration purposes for each
19 former employee to allow them to continue to work in the United States, including
20 sponsoring former employees for H2B or comparable visas. Any required
21 sponsorship shall occur as soon as reasonably possible.

22 5. Employment

23 Trans Bay shall endeavor to continue to employ claimants during, as well as
24 beyond, the Project, or to assist claimants to find employment elsewhere should
25 Trans Bay not be reasonably able to continue to employ the Employees or Former
26 Employees due to lack of work, loss of contracts, loss of facility rental, lease or
27 license, or other issue rendering it impossible or impractical for Trans Bay to
28 continue to employ some or all Employees or Former Employees.

6. Right of Return

Trans Bay shall hire any Claimant who wishes to reapply to work for Trans Bay during the term of the Decree. Each Claimant shall have priority to be hired for training and to work for Trans Bay to the extent there is any work available.

Trans Bay shall also inform the EEOC of any openings to allow each claimant who did not work for Trans Bay initially, the right to a position as a welder.

7. Training and Eligibility Requirements

Claimant employees, claimant former employees and claimant Non-Employees who may, in the future, become employees of Trans Bay shall not be discriminated against in terms of education, training or eligibility for advancement.

As such, all claimants to become employees shall be entitled to the same educational benefits as the original 13 claimant employees. All claimants to become employees shall be trained for Cal Trans work in the same manner as all former employees of Trans Bay who have certified for Cal Trans work and shall not be delayed in their eligibility for advancement by way of new, extended, or different certification/training requirements. Claimant employees who become Cal Trans certified welders shall be entitled to advancement, without discrimination, based upon relevant factors including: (1) Date of certification to perform Cal Trans welding work, (2) Skill level of the claimant employee, (3) Leadership ability of the claimant employee, and (4) Availability of advanced position, lead employee or supervisory position. Items (2), (3), and (4) shall be determined in the reasonable discretion of Trans Bay.

XI.

MONITORING

The EEOC shall monitor Trans Bay's compliance with this Consent Decree. Trans Bay shall prepare and forward to the EEOC an annual compliance report

///

1 regarding Trans Bay's substantive obligations contained this Consent Decree
2 commencing one year from the Effective Date.

3 Trans Bay shall:

4 A. Ensure that the claimants are provided equal employment opportunity in
5 compliance with Section X. Should Trans Bay not have welding positions, Trans
6 Bay shall endeavor to help the claimant employees and former employees locate
7 work in other positions available at Trans Bay or elsewhere. In such a case, at no
8 time, shall the claimant's minimum agreed pay be impacted unless the highest paid
9 employee in the contemplated new position, over the last 12 months immediately
10 preceding the job change, is paid below the agreed minimum wage, in which case
11 the employee shall receive the same pay as said highest paid employee in said
12 position.

13 B. Trans Bay agrees that it will not terminate any claimant, Employee, Former
14 Employee, or Non-Employee that becomes employed for lack of work during the
15 E2T1 project unless it becomes "impossible" or "impractical" for Trans Bay to
16 continue its business. For purposes of this Decree, the terms "impossible" or
17 "impractical" mean that Trans Bay is completely unable to operate its business. A
18 brief (less than 30 day) suspension of business operations or delay in continuing
19 operations is not within the definition of "impossible" or "impractical."

20 C. In the event that Trans Bay attempts to terminate any Employee during the
21 Project, the EEOC will make an independent determination as to whether the
22 proposed termination is because it is "impossible" or "impractical" for Trans Bay
23 to continue its business, it is for proper cause, or it is otherwise valid. The EEOC
24 ~~will examine whether the proposed termination is consistent with the requirements~~
25 ~~of the decree and otherwise based upon objective and verifiable standards that~~
26 other employees are held to at Trans Bay. The Employee will remain employed
27 until a determination is made by the EEOC. The EEOC shall make its
28 determination within a reasonable time, but not greater than fourteen (14) calendar

1 days from written notice by Trans Bay to the EEOC. If the EEOC determines that
2 it "impossible" or "impractical" for Trans Bay to continue its business and to
3 continue to employ some or all of the claimants, Employees, Former Employees, or
4 Non-Employees that become employed, then Trans Bay shall forfeit the security
5 deposit for the apartment(s) of such claimant(s) who are terminated, and the
6 security deposit shall be distributed to the claimant(s) equally. Upon request, Trans
7 Bay agrees to provide necessary documents and to provide access to individuals
8 who may need to be interviewed to allow the EEOC to make an assessment on any
9 proposed termination.

10 D. If the EEOC determines that the proposed termination of the Employee is for
11 cause or is otherwise proper under the circumstances, upon written determination
12 of such finding by the EEOC, the Employee's termination shall become effective
13 immediately.

14 E. If the EEOC determines that the termination was not for cause, or not
15 otherwise reasonable under the circumstances, then the Employee will be entitled
16 to remain in his position.

17 F. In the event the EEOC is not able to resolve the dispute between Trans Bay
18 and the Employee, the EEOC shall inform Trans Bay of the impasse at issue, and
19 EEOC may file a motion in court, for an order reinstating the employee with
20 appropriate relief.

21 G. Should an Employee be fired or otherwise terminated for any reason,
22 including for cause, the Employee will not need to pay Trans Bay back any monies
23 previously received by said terminated employee or employees, under this Decree.

24 ~~Termination will deny the claimant the opportunity to receive any future wages for~~
25 ~~employment, but the claimant will remain eligible to receive all the other benefits~~
26 to which he is entitled under the Decree as compensation for his personal injury.

27 ///

28 ///

1 H. Trans Bay shall also be responsible for paying the liaison services provided
2 by the Thai Community Development Center ("Thai CDC") and the Coalition to
3 Abolish Slavery and Trafficking ("CAST") as agreed to by the parties.

4 Thai CDC shall be reimbursed for costs associated with the relocation of the
5 Employees and Former Employees that have already begun working for Trans Bay.
6 The parties acknowledge that due to the language barrier, Trans Bay will reimburse
7 Thai CDC for expenses incurred to advance the interest of the Decree but not to
8 exceed \$4,000.

9 CAST shall also be reimbursed for costs associated with relocating the
10 claimants and their families. CAST shall be reimbursed for the relocation efforts of
11 the caseworkers for the original 13 Employees and the families. CAST's
12 reimbursement shall be limited to two case management sessions associated with
13 reuniting the 13 Employees with their families. Reimbursement to CAST shall not
14 exceed a cap of \$7,500.

15 CAST and Thai CDC shall submit their reimbursement requests to the
16 EEOC. The EEOC shall then review them and submit them to Trans Bay for
17 payment. Trans Bay shall pay Thai CDC and CAST within thirty (30) days of
18 receipt of notice. The EEOC shall be given simultaneous notice and copies of the
19 checks shall be forwarded to the EEOC c/o the Regional Attorney Anna Park at
20 255 East Temple Street 4th Floor, LA, CA 90012.

22 XII.

23 MONETARY DISTRIBUTION

24 A. For monies not yet distributed to the claimants, payment shall be made
25 within five (5) days of the Effective Date. Any reimbursement costs not yet paid
26 by Trans Bay shall be paid within thirty (30) days of notice from the EEOC of the
27 payments that are required. The parties acknowledge that Trans Bay has already
28 met some of its monetary obligations under this Decree prior to the Effective Date.

1 Claimants that have reimbursement costs, shall submit all such requests to the
2 EEOC along with documentation. In the case of mileage or other reimbursable
3 expenses, the Trainees, Employees, and Former Employees shall submit in writing
4 an itemization of such expenses to the EEOC. EEOC shall review and then submit
5 the amounts to be paid to Trans Bay. All monies paid other than for wages shall be
6 to compensate the claimants for their personal injury.

7 B. Trans Bay shall pay the reimbursement related costs directly to the identified
8 claimants within thirty (30) days of receipt of notification from the EEOC. The
9 EEOC shall oversee this process. For any payments made to the claimants, a copy
10 of the check(s) shall be simultaneously forwarded to the EEOC c/o Regional
11 Attorney Anna Park at 255 East Temple Street 4th Floor, LA, CA 90012.

12 C. Within thirty (30) days of notification of eligible claimants, (excluding
13 ineligible former employees), Trans Bay shall pay to each eligible claimant the
14 monetary distribution called for pursuant to provision X above.

15 D. All monetary distribution checks shall be written out to individual named
16 claimants and shall be forwarded to the Thai Community Development Center c/o
17 Chanchanit Martorell, Executive Director at 6376 Yucca, Street, Suite B, Los
18 Angeles, CA 90028.

19 E. A copy of the checks and related correspondence shall be forwarded to the
20 United States Equal Employment Opportunity Commission within ten (10) days of
21 issuance, c/o Regional Attorney, Anna Y. Park at 255 E. Temple Street 4th Floor,
22 Los Angeles, CA 90012.

23 F. In the event that any portion of the checks or other settlement monies to be
24 paid herein are not distributed to the claimants by the expiration of this Decree, the
25 checks for those monies shall be cancelled and a check shall be reissued in the

26 amount of those monies payable to the Thai Community Development Center. The
27 EEOC shall maintain an accounting of all checks sent to Thai Community
28 Development Center for payment to named claimants and of the disposition of each

1 such check, including the date the Thai Community Development Center received
2 the check, the date the claimant received the check, the date the check was cashed,
3 if known, and, if the claimant did not receive and/or cash the check, the efforts the
4 Thai Community Development Center made to locate the claimant to give him the
5 check and the information it provided to the claimant about cashing the check. The
6 EEOC also shall include in its accounting any other monies the Thai Community
7 Development Center receives pursuant to this Decree.

8 G. Trans Bay shall prepare and distribute 1099 tax reporting forms if required to
9 each of the eligible claimants pursuant to IRS rules and regulations. The parties
10 agree that the payments are awarded as, and represent the payment of, personal
11 injury suffered by each recipient claimant.

13 XIII.

14 INJUNCTIVE RELIEF

15 A. Non-Discrimination

16 1. National Origin Discrimination

17 Trans Bay, its officers, employees, management (including all
18 supervisory employees), successors, assigns, and all those in concert or
19 participation with them who are under Trans Bay's control, or any of them, hereby
20 agree to: (a) not engage in national origin discrimination; (b) prevent and correct
21 any harassment or other discrimination on the basis of national origin; (c) ensure
22 that employees who complain about or resist discrimination on the basis of national
23 origin are not subjected to any tangible employment actions; (d) hold managers and
24 supervisors accountable for national origin harassment or discrimination; (e) ensure
25 immediate, corrective, and preventative measures are taken when a valid complaint
26 is raised; (f) implement effective policies and procedures to ensure a workplace
27 free of hostility due to national origin; and (g) provide required training to all
28

employees related to recognizing, avoiding, addressing, investigating and handling of national origin discrimination claims.

2. Retaliation

Trans Bay, its officers, employees, management (including all supervisory employees), successors, assigns, and all those in active concert or participation with them who are under Trans Bay's control, or any of them, hereby agree not to engage in, implement or permit any action, policy or practice with the purpose of retaliating against any current or former employee of Trans Bay because he or she has in the past, or during the term of this Decree: (a) opposed any practice made unlawful under Title VII; (b) filed a charge of discrimination alleging such practice; (c) testified or participated in any manner in any investigation (including without limitation, any internal investigation undertaken by Trans Bay), or proceeding in connection with this case and/or relating to any claim of a Title VII violation; (d) was identified as a possible witness or claimant in this action; (e) asserted any rights under this Decree; or (f) sought and/or received any relief in accordance with this Decree.

Trans Bay shall promote, to the best of its abilities and in good faith, that any contractors or subcontractors employed by Trans Bay, or over whom Trans Bay has control, operate a workplace free from discrimination, harassment, and retaliation as set forth above.

B. Revision and Distribution of Anti-Harassment, Anti-Discrimination, and Anti-Retaliation Policies and Procedures

Within forty-five (45) days of the Effective Date, Trans Bay shall review and revise and/or modify where necessary its anti-harassment, anti-discrimination, and anti-retaliation policies.

The policy shall include:

1. A clear explanation of prohibited conduct;

///

2. Assurance that employees who make complaints of harassment, discrimination, or retaliation, or provide information related to such complaints will be protected against retaliation;

3. A clearly described complaint process that provides accessible and confidential avenues of complaint with contact information including name (if applicable), address, and telephone number of persons both internal and external to the Trans Bay (i.e., Commission and EEOC) to whom employees may report alleged discrimination and retaliation, including a written statement that the employee may report the discriminatory behavior to designated persons outside their chain of management;

4. Assurance that the employer will protect the confidentiality of harassment, discrimination, and retaliation complaints to the extent possible;

5. A complaint process that provides a prompt, thorough, and impartial investigation;

6. A procedure for communicating with the complainant in writing regarding the status of the complaint/investigation, results of the investigation, and any remedial action taken;

7. Assurance that Trans Bay will take immediate and appropriate corrective and preventative actions if it determines or believes that harassment, discrimination, or retaliation occurred;

8. A description of the possible consequences, up to and including termination, that will be imposed upon violation of the policies;

9. Defined policies and procedures for hiring, recruitment, screening, retention, transfers, and promotion that do not discriminate based upon national origin; and

10. A statement that Trans Bay's anti-discrimination and retaliation policies apply to all persons, including but not limited to Trans Bay's owners,

///

1 shareholders, directors, officers, other management officials, supervisors, vendors,
2 suppliers, third parties, and customers.

3 EEOC shall comment on the policies and procedures within thirty (30) days
4 of receipt. The parties shall meet and confer about the proposed changes. If the
5 parties are not able to resolve their differences, the parties shall follow Section XII
6 set forth below. Should the policy not require any revision, no later than ten (10)
7 business days after the forty-five (45) day period the policy shall be distributed to
8 all employees in either English, Spanish or Thai, depending on the language
9 preference of each employee. The policies and procedures shall also be
10 disseminated to all management/supervisory staff and shall also be included in any
11 relevant policy or employee manuals distributed to employees by Trans Bay.
12 Trans Bay shall maintain acknowledgments from each employee who receives the
13 revised policy, in either English, Spanish or Thai, depending on the language
14 preference of each employee. Throughout the term of this Decree, Trans Bay shall
15 also post the revised policy, in English, Spanish and Thai, in a place that is clearly
16 visible to all employees at each of its facilities covered by this Decree in 15 point
17 font.

18 All new or rehired employees shall receive a copy of the policies and
19 procedures within ten (10) days of being hired or rehired.

20 C. Complaint Procedure

21 Within forty-five (45) days of the Effective Date, Trans Bay shall publicize
22 an internal complaint procedure to provide for the filing, investigation and, if
23 appropriate, remedying of complaints of harassment, discrimination, and

24 ~~retaliation. Trans Bay shall:~~

25 ~~1. Publicize the complaint procedure;~~

26 2. Track and collect all complaints filed thereunder;

27 3. Investigate and resolve such complaints in a timely and effective
28 manner; and

1 4. Retain records regarding resolution of all such complaints.

2 Trans Bay shall track all complaints filed thereunder and retain records
3 regarding resolution of all such complaints. Trans Bay will review the allegations
4 of harassment, discrimination, and/or retaliation made during the term of the
5 Decree and conduct an investigation accordingly. Trans Bay shall provide written
6 findings at the conclusion of its investigation. Trans Bay may recommend
7 discipline, including but not limited to termination of employees who have engaged
8 in harassment, discrimination, or retaliation.

9 If Trans Bay rejects the EEOC's recommended course of action, Trans Bay
10 must present written justification to the EEOC for failing to adopt it within twenty
11 (20) days of the EEOC's findings.

12 The internal complaint procedure shall incorporate the following elements:

13 1. A policy describing how investigations will be conducted;

14 2. A prompt commencement and thorough investigation by an employee
15 of Defendant trained to conduct such investigations who is not connected with the
16 complaint;

17 3. A statement that an investigation should include interviews of all
18 relevant witnesses, including the complainant, and reviews of all relevant
19 documents;

20 4. A written record of all investigatory steps, and any findings,
21 conclusions, and any actions taken;

22 5. Provision for the reasonably prompt resolution of such complaints;

23 6. An opportunity for the complainant to review and respond to tentative
24 findings, except in those circumstances in which it is necessary to take immediate
25 action;

26 7. Confidentiality of the complaint and investigation to the extent
27 possible;

28 ///

8. Appropriate communication to the complainant of the final conclusions of the investigation;

9. An appeal procedure to an appropriate Trans Bay representative should the complainant be dissatisfied with the results of the investigation;

10. A notice that employees or applicants complaining of discrimination may use the company's internal complaint procedure and also have the right to contact the EEOC or state or local Fair Employment Practice (FEP) agencies for information or to file a charge of discrimination. The notice shall also state that filing an internal complaint does not relieve the complainant of meeting any applicable deadline for the filing of a charge or complaint with EEOC or state or local FEP agencies;

11. A statement that the complainant shall not be required to first report the complaint to a person who is accused of the inappropriate conduct to invoke the Internal Complaint Procedure;

12. The internal complaint procedure will permit, but not require, an employee to initiate the complaint process by submitting a written complaint on a form designed for the purpose;

13. A statement that it is unacceptable to retaliate against any associate for use of the Internal Complaint Procedure, for assisting in the investigation of a complaint, or for otherwise assisting in the utilization of the procedure; and

14. A statement that if an allegation of discrimination or retaliation against a manager or other associate is substantiated, then such conduct will result in appropriate discipline, which shall include discharge.

D. Training

~~Within one hundred fifty (150) days after the Effective Date, all of Trans~~
Bay's supervisors and employees shall be required to have attended a training program on harassment, discrimination, and retaliation. The training shall be

///

1 mandatory and occur once a year for the term of this Decree. The program shall be
2 given in a language that each employee best understands.

3 1. The training shall include coverage of the subjects of equal
4 employment opportunity rights and responsibilities, discrimination, harassment,
5 retaliation, and Trans Bay's revised policies and procedures for reporting and
6 handling complaints of discrimination, harassment and retaliation.

7 2. Trans Bay's managerial and supervisory employees additionally shall
8 receive training on how to properly handle and investigate complaints of
9 discrimination and/or harassment in a neutral manner, how to take preventive and
10 corrective measures against discrimination and/or retaliation, and how to recognize
11 and prevent discrimination and/or retaliation.

12 3. All employees required to attend such training shall verify their annual
13 attendance in writing. A log shall be maintained to track who attended each
14 training.

15 4. Within forty-five (45) days after the Effective Date, or fifteen (15)
16 days after hiring the EEOC, whichever is later, Trans Bay and the EEOC shall
17 submit to the EEOC a description of the of content of the training to be provided,
18 and EEOC will have fifteen (15) business days in which to comment.

19 5. Trans Bay shall give the EEOC a minimum of fifteen (15) business
20 days' advance written notice of the date, time and location of each training program
21 provided pursuant to this Decree, and an EEOC representative may attend any such
22 training program.

23

24

XIV.

25

RECORD KEEPING AND REPORTING

26 Trans Bay shall establish a record keeping procedure that provides for the
27 centralized tracking of the hiring, employment and termination of each of the
28 ///

claimants in this case and of any reported alleged discrimination and retaliation.

The records to be maintained shall include:

A. Record keeping of Discrimination and Retaliation Complaints

1. All documents generated in connection with any complaint, investigation into, or resolution of every complaint of harassment, discrimination or retaliation for the duration of the Decree and the identities of the parties involved. This includes any disciplinary actions taken against an employee and any findings;

2. All forms acknowledging employees' receipt of Trans Bay's revised discrimination and anti-retaliation policy;

3. Documents tracking and analyzing complaints filed against the same employee; and

4. All documents verifying the occurrence of all training sessions and names and positions of all attendees for each session.

B. Record Keeping of Recruitment, Hiring, and Transferring into Positions

Trans Bay shall maintain records for each claimant regarding recruitment, hiring, transportation and relocation expenses and payments, transferring, promotion, termination, wages and hours worked for each pay period.

C. Reporting

Trans Bay shall submit an annual report to the EEOC, unless more a more frequent report is necessary to track prospective employees on the waiting list for work at Trans Bay. If a more frequent report is needed, the EEOC shall inform Trans Bay of the frequency and substance of the report. Otherwise, the annual report shall include the following:

~~I. The status of each claimant (if the status has changed), including the job held, the wages received and a report of any dispute arising out the employment. Should the claimant no longer work for Trans Bay, the report shall~~

1 contain the date the claimant is not employed and the reasons for the non-
2 employment status;

3 2. The status of the Project, and Trans Bay's expected employment needs
4 during the next twelve months;

5 3. A description and analysis of all complaints raised during the review
6 period as set forth herein; and

7 4. A description of defendant's efforts to sponsor the claimants for
8 immigration purposes, if any.

9 **XV.**

10 **MISCELLANEOUS PROVISIONS**

11 A. Successors In Interest

12 During the term of this Consent Decree, Trans Bay shall provide any
13 potential successor-in-interest with a copy of this Consent Decree within a
14 reasonable time of not less than thirty (30) days prior to the execution of any
15 agreement for acquisition or assumption of control of any or all of Trans Bay's
16 facilities, or any other material change in corporate structure, and shall
17 simultaneously inform the EEOC of same. However, this shall not apply to any
18 situation involving a land sale or a restructure of business if the same owners are
19 involved.

20
21 B. Notice

22 During the term of this Consent Decree, Trans Bay and its successors shall
23 assure that each of its officers, managers and supervisors is aware of any term(s) of
24 ~~this Decree which may be related to his/her job duties.~~

25 ~~Unless otherwise stated, all notices, reports and correspondence required~~
26 under this Decree shall be delivered to the attention of the Regional Attorney, Anna
27 Y. Park, U.S. Equal Employment Opportunity Commission, Los Angeles District
28 Office, 255 East Temple Street, 4th Floor, Los Angeles, CA 90012.

Each party shall bear its own costs of suit and attorneys' fees. Trans Bay shall bear all costs associated with its administration and implementation of its obligations under this Consent Decree.

D. Counterparts and Facsimile Signatures

This Decree may be signed in counterparts. A facsimile signature shall have the same force and effect of an original signature or copy thereof.

The parties agree to entry of this Decree and judgment subject to final approval by the Court. All parties, through the undersigned, respectfully apply for and consent to the entry of this Consent Decree as an Order of this Court.

Dated: December 9, 2006

Respectfully Submitted,

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

BY: Anna Y. Park

Attorneys for Plaintiff EEOC

Dated: December __, 2006

DOUGLAS N. SMITH, INC.

BY: Douglas N. Smith

Attorneys for Defendants Trans Bay Steel
Corporation

Date: December __, 2006

Trans Bay Steel Inc.

By: _____

William Kavicky

President of Trans Bay Steel, Inc.

C. Costs and Attorneys' Fees

Each party shall bear its own costs of suit and attorneys' fees. Trans Bay shall bear all costs associated with its administration and implementation of its obligations under this Consent Decree.

D. Counterparts and Facsimile Signatures

This Decree may be signed in counterparts. A facsimile signature shall have the same force and effect of an original signature or copy thereof.

The parties agree to entry of this Decree and judgment subject to final approval by the Court. All parties, through the undersigned, respectfully apply for and consent to the entry of this Consent Decree as an Order of this Court.

Dated: December __, 2006

Respectfully Submitted,

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSIONBY: Anna Y. Park

Attorneys for Plaintiff EEOC

Dated: December 6, 2006

DOUGLAS N. SMITH, INC.

BY: Douglas N. SmithAttorneys for Defendants Trans Bay Steel
CorporationDate: December 6, 2006Trans Bay Steel Inc.By: _____
William Kavicky

This Decree may be signed in counterparts. A facsimile signature shall have the same force and effect of an original signature or copy thereof.

The parties agree to entry of this Decree and judgment subject to final approval by the Court. All parties, through the undersigned, respectfully apply for and consent to the entry of this Consent Decree as an Order of this Court.

Dated: December __, 2006

Respectfully Submitted,
U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

BY:

Anna Y. Park

Attorneys for Plaintiff EEOC
DOUGLAS N. SMITH, INC.

Dated: December 6, 2006

BY:


Douglas N. Smith

Attorneys for Defendants Trans Bay Steel
Corporation

Date: December 6, 2006

Trans Bay Steel Inc.

By:


William Kavicky

President of Trans Bay Steel, Inc.

ORDER OF THE COURT

GOOD CAUSE APPEARING, The Court hereby retains jurisdiction and the provisions of the foregoing Consent Decree are hereby approved and compliance with all provisions thereof is fair and adequate.

IT IS SO ORDERED.

Date: _____

U.S. District Court Judge

FILED

2006 DEC -7 PM 2:56

CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.

BY _____

1 ANNA Y. PARK, CA Bar No. 164242
 2 U.S. EQUAL EMPLOYMENT
 3 OPPORTUNITY COMMISSION
 Los Angeles District Office
 4 255 East Temple Street, 4th Floor
 Los Angeles, CA 90012
 Telephone: (213)894-1083
 Facsimile: (213) 894-1301
 5 E-mail: lado.legal@eeoc.gov

6 Attorneys for Plaintiff

7
 8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**

10 U.S. EQUAL EMPLOYMENT
 11 OPPORTUNITY COMMISSION,

12 Plaintiff,

13 v.

14 TRANS BAY STEEL, INC and DOES 1
 15 through 100;

16 Defendants.

Civil Action No.

05-07766

COMPLAINT

(Civil Rights-Employment
 Discrimination)

JURY TRIAL DEMAND

17
 18 **NATURE OF THE ACTION**

19 This is an action under Title VII of the Civil Rights Act of 1964, and Title I
 20 of the Civil Rights Act of 1991 ("Title VII") to correct unlawful employment
 21 practices on the bases of national origin (Thailand), and to provide appropriate
 22 relief to Charging Parties Thai Community Development Center on behalf of 48
 23 workers of Thai descent ("Charging Parties") and other similarly situated
 24 individuals.

25 ~~Plaintiff United States Equal Employment Opportunity Commission (the~~
 26 "Commission") alleges that Defendants Trans Bay Steel Corporation (hereinafter
 27 referred to as "Defendants" or "Trans Bay") acted as a joint employer, and thereby
 28 subjected the Charging Parties and other similarly situated individuals to unlawful

1 employment practices on the basis of their national origin (Thailand). More
2 specifically, Charging Parties and other similarly situated individuals were
3 discriminated against, as a result of the wilful, reckless or negligent conduct of
4 Defendants, on the basis of their national origin (Thailand) in violation of Title VII
5 in the terms and conditions of employment, pay, recruitment, hiring, harassment,
6 and retaliation.

JURISDICTION AND VENUE

7
8
9 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
10 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to
11 § 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42
12 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and § 102 of Title I of the Civil Rights
13 Act of 1991, 42 U.S.C. § 1981a.

14 2. Some of the employment practices alleged to be unlawful were
15 committed in the City and County of Los Angeles, and within the jurisdiction of
16 the United States District Court for the Central District of California.

PARTIES

17
18
19 3. Plaintiff, U.S. Equal Employment Opportunity Commission is the
20 agency of the United States of America charged with the administration,
21 interpretation, and enforcement of Title VII, and is expressly authorized to bring
22 this action under §706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e- 5(f)(1) and (3).

23 4. At all relevant times, Defendant Trans Bay Steel Inc., a California
24 corporation, has been continuously doing business within the jurisdiction of the
25 United States District Court for the Central District of California

26 5. At all relevant times, Defendant, by its agents, continuously had been
27 an employer engaged in an industry affecting commerce, within the meaning of
28 Section 701(b), (g) and (h) of Title VII, 42 U.S.C. §2000e(b), (g), and (h).

6. At all relevant times, all Defendants have continuously employed fifteen (15) or more persons.

7. The Commission is ignorant of the true names and capacities of the Defendant sued as Does 1 through 100, inclusively, and therefore Plaintiff sues said Doe Defendants by such fictitious names. Plaintiff reserves the right to amend the complaint and to name the DOES individually or corporately as they become known. Plaintiff alleges that each Defendant named as a DOE was in some manner responsible for the acts and omissions alleged herein and Plaintiff will amend the complaint to allege such responsibility when the same shall have been ascertained by Plaintiff. It is further alleged on information and belief that the unnamed defendants are joint employers and alter egos and that the remaining defendant are properly named herein.

8. All of the acts and failures to act alleged herein were duly performed by and attributable to all Defendants, each acting as a successor, agent, employee, or under the direction and control of the others, except as specifically alleged otherwise. Said acts and failures to act were within the scope of such agency and/or employment, and each Defendant intentionally, recklessly or negligently participated in, approved and/or ratified the unlawful acts and omissions by the other Defendant complained of herein. Whenever and wherever reference is made in this Complaint to any act by a Defendant, such allegations and reference shall also be deemed to mean the acts and failures to act of each Defendant acting individually, jointly, and/or severally.

STATEMENT OF CLAIMS

9. ~~More than thirty days prior to the institution of this lawsuit, Charging~~ Parties filed charges with the Commission alleging violations of Title VII by Defendants. The Commission issued Letters of Determination finding that these Charging Parties and other similarly situated individuals were discriminated

1 against on the basis of their national origin (Thailand) and were retaliated against
2 in violation of Title VII. All conditions precedent to the institution of this lawsuit
3 have been fulfilled.

4 10. Since at least December of 2002, Defendants, including Defendant
5 Trans Bay through the conduct of its agents, engaged in unlawful employment
6 practices in violation of §703(a) of Title VII, 42 U.S.C. § 2000e-2(a), by harassing
7 and discriminating against the Charging Parties and other similarly situated
8 individuals on the basis of their national origin (Thailand). Defendant negligently
9 engaged the services of Hi Cap Enterprises and Kota Manpower Co., and intrusted
10 said agent to secure skilled welders from Thailand. Hi Cap and Kota Manpower,
11 as agents for defendant, discriminated against the Charging Parties and similarly
12 situated individuals, without the actual knowledge of Defendant Trans Bay, but as
13 actual or ostensible agents of Trans Bay, by subjecting them to intolerable working
14 conditions by forcing the Charging Parties and others to work without pay,
15 restricting their movement, threatening them if they attempt to escape, confiscating
16 passports, harassing them, and subjecting them to different terms and conditions of
17 employment.

18 11. Trans Bay should be considered a joint employer with Hi Cap
19 Enterprises and Kota Manpower, causing harm to the Charging Parties and others
20 similarly situated. The effect of the intentional, reckless or negligent actions
21 complained of above has been to deprive Charging Parties and other similarly
22 situated individuals of equal employment opportunities and otherwise adversely
23 affect their status as employees on the basis of their national origin (Thailand).

24 12. ~~The effect of the actions intentional, reckless or negligent complained~~
25 ~~of above has been to deprive Charging Parties and other similarly situated~~
26 individuals of equal employment opportunities and otherwise adversely affect their
27 status as employees on the basis of their national origin (Thailand).

28 ///

1 13. Since in or about at least December of 2002 Defendant engaged in
2 unlawful employment practices and other acts through its agents, Kota Manpower
3 and Hi Cap Enterprises in Los Angeles and Long Beach, CA, in violation of
4 Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a) by subjecting the Charging
5 Parties to retaliation for engaging in protected activities under Title VII, and
6 damages as hereinafter set forth.

7 14. The effect of the practices complained of above has been to cause
8 damage and injury to and to deprive Charging Parties of equal employment
9 opportunities and to otherwise adversely affect their employment status as they
10 engaged in protected activity under Title VII.

11 15. The unlawful employment practices and conduct complained of
12 above were done with malice, with reckless indifference to the federally protected
13 rights of Charging Parties and other similarly situated individuals and/or resulted
14 in injury to said Charging Parties.

15 16. As a direct and proximate result of Defendant's aforesaid acts,
16 Charging Parties and other similarly situated individuals each suffered emotional
17 pain, suffering, inconvenience, loss of employment of life, humiliation and other
18 damages, according to proof.

19 17. As a direct and proximate result of Defendant's aforesaid acts,
20 Charging Parties and other similarly situated individuals have each suffered a loss
21 of earnings in amounts according to proof.

22
23 PRAYER FOR RELIEF

24 Wherefore, the Commission respectfully requests that this Court:

25 A. Grant a permanent injunction enjoining Defendants, their officers,
26 successors, assigns, and all persons acting in concert or participation with
27 Defendants, from engaging in any employment practice on the basis of national
28 origin and religion;

1 B. Order Defendant to institute and carry out policies, practices, and
2 programs which prohibit national origin discrimination, religious discrimination,
3 and any other employment practice which discriminates on the basis of national
4 origin or religion, and which eradicate the effects of their past and present
5 unlawful employment practices;

6 C. Order Defendant to make whole all the Charging Parties and other
7 similarly situated individuals, by providing appropriate back pay and benefits with
8 prejudgment interest, and/or other affirmative relief necessary to eradicate the
9 effects of their unlawful employment practices, including but not limited to
10 reinstatement and/or front pay and other appropriate relief to be determined at trial
11 and to compensate said Charging Parties for their personal injuries;

12 D. Order Defendant to make all the Charging Parties and others similarly
13 situated whole by providing compensation for past and future pecuniary and non-
14 pecuniary losses resulting from the negligence and unlawful employment practices
15 complained of above, including but not limited to, emotional pain and suffering,
16 inconvenience, loss of enjoyment of life, and humiliation, in amounts to be
17 determined at trial;

18 E. Order Defendant to pay all the Charging Parties and others similarly
19 situated punitive damages for their malicious and reckless conduct as described
20 above, in amounts to be determined at trial;

21 F. Grant such further relief as the Court may deem just and proper in the
22 public interest; and

23 G. Award the Commission its costs of this action.

24 ///

25 ///

26 ///

27 ///

28 ///

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

RONALD S. COOPER
General Counsel

JAMES LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
1801 "L" Street, N.W.
Washington, DC 20507

Dated: December 7, 2006

BY: 

ANNA Y. PARK
Regional Attorney


U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
255 East Temple Street, 4th Floor
Los Angeles, CA 90012

Napa Valley Register
American Canyon Eagle
St. Helena Star
Weekly Calistogan
DP Valley Life
Valley Classifieds

» Jobs » Real Estate » Autos » Rentals

Search Tips Advanced Search

Search last 14 days here GO



HOME NEWS SPORTS BUSINESS FEATURES COLUMNISTS OPINION CALENDARS OBITUARIES CIRCULATION CONTACT US

News | Local Top Story

Quick Links


- » Web Extras
- » Photo Galleries
- » RSS Feeds
- » Archives
- » Health News

Market Place

- » Classifieds
- » Real Estate
- » Rentals
- » Jobs
- » Autos


Register Services

- » Contact Us
- » Work for Us!
- » Subscriptions
- » Sales Locations
- » Photo Reprints
- » Advertising
- » Announcements
- » NIE



TOP JOBS


- Cellar Worker**
Don Sebastiani & Sons
- Case Manager**
Mental Health Rehabilitation Center
- Retail Cashier**
Napa Goodwill
- Concierge**
Nationwide Concierge Co.
- Security**
Red Phantom



Forging a new life

Former slaves find salvation in Napa

By DAVID RYAN
Register Staff Writer
Wednesday, December 27, 2006

 **BOOKMARK**

Last week along the Napa River, men and women used a crane to carry a massive steel tube — taller than a man, longer than any Napa County building is high — from Trans Bay Steel's fabrication floor to a barge on the muddy river.

The 225-ton, 210-foot long steel cylinder is destined to be part of the Oakland Bay Bridge. It is the last to make the journey to the Bay Bridge from the only remaining Napa steel fabricator.

As the pipe was set onto a barge, its weight forcing the vessel deeper into the water, several workers onshore were reaching a turning point in a long odyssey — one that started in Thailand, included a period as slave laborers in Southern California and is now ending on a happy note in the Napa Valley.

One of those workers is Sathaporn Pornsririrak, 43.

In 2004, a Los Angeles-based employment agency lured him to the United States to work as a welder for a Napa company. But instead, Pornsririrak said, he was forced to work 13 hours a day, six days a week at a Thai restaurant in Long Beach. He earned only \$200 for three months of work.

Federal employment officials described the work conditions as "involuntary servitude." Eventually his captors were exposed to a Thai aid organization and then to U.S. labor officials.


But if it weren't for the actions of Trans Bay Steel — which hired him and 21 of his fellow exploited Thai workers, trained them in steel-working skills and paid them to fabricate parts for the Oakland Bay Bridge retrofit project — Pornsririrak would have found himself back in Thailand in the same position he was before he came to America: looking for a decent job to feed his family.

Now, he's walking the path to U.S. citizenship on a special visa given to exploited workers. He's learning English, attends an adult school and brought his family over from Thailand. His wife works at a Napa restaurant. His daughter goes to a Napa elementary school. He calls himself Paul now, and he said his priority in life is to give his daughter the best education he can.

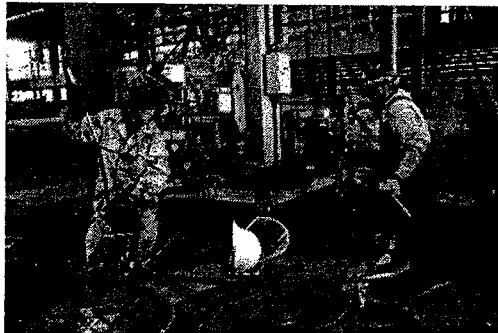
'The extra mile'

Earlier this month, Trans Bay entered into a \$1.4 million no-fault settlement with the U.S. Equal Employment Opportunity Commission, formally ending a months-long process of helping the

CURIOUS About The Price Of Your Neighbor's House?



ASK ME!



Andrea Roth/Register

Sathaporn "Paul" Pornsririrak, left, has been working at Trans Bay Steel Corp. of Napa for several months now, after an ordeal of working practically as a slave in a Long Beach restaurant. As Pornsririrak prepares to weld, Hector Lopez works on the right.

exploited Thai workers.

Government officials say the deal was unlike most of those that wrap up labor-related disputes.

"Trans Bay did what few employers typically do," said Olophious Perry, director of the EEOC's Los Angeles office. "I've had a lot of experience with employers claiming it wasn't them. Our perception of this case was, that once we advised Trans Bay what the allegations were, rather than fight our conclusions, they worked with us to find a solution that we as a government agency can live with ... I wouldn't disagree with them that they went the extra mile."

That "extra mile" meant taking on a wrong the company says was committed by the employment agency it hired and "making it right," as Trans Bay President Bill Kavicky said.

Lawyers for the now-defunct Los Angeles employment agency, Kota Manpower, did not return phone calls seeking comment. Company officials have seemingly disappeared as authorities search for them. In an Associated Press report, Los Angeles attorney Daniel Marmelefsky said his client, Kota principal Yoo Taik Kim, placed the blame on Trans Bay. He said Kim provided free housing and food to the Thai workers under his care after Trans Bay didn't follow through on its commitments.

Help wanted

In late 2001, several Bay Area bridge projects were underway as part of a state-sponsored seismic upgrade program. In a recent interview, Kavicky counted off the projects on his hand: Benicia-Martinez Bridge, Carquinez Bridge and the Richmond-San Rafael Bridge.

"At that time there wasn't a union hall that had a worker on the benches," he said.

Looking for welders, Kavicky took out employment ads nationwide. When no qualified workers responded, the situation looked desperate. Without workers, he might not be able to take on bridge projects.

Kavicky called everyone he knew who might be able to help him, including a college acquaintance-turned San Francisco businessman who had contacts with the Korean steel industry. Kavicky asked him: Did he know of any foreign steel workers who could come to Trans Bay?

The man knew of a contact who might be able to help Kavicky find workers, an employment agency with offices in Thailand and Los Angeles called Kota Manpower. It was run by a man named Yoo Taik Kim.

Kavicky called Kim.

Doug Smith, Trans Bay's attorney, said he was initially impressed with Kota Manpower's structure.

"Kota Manpower had lawyers and accountants," he said, people whose track records could be confirmed through professional associations.

One of its principals, it turned out, also served as Kota's immigration attorney.

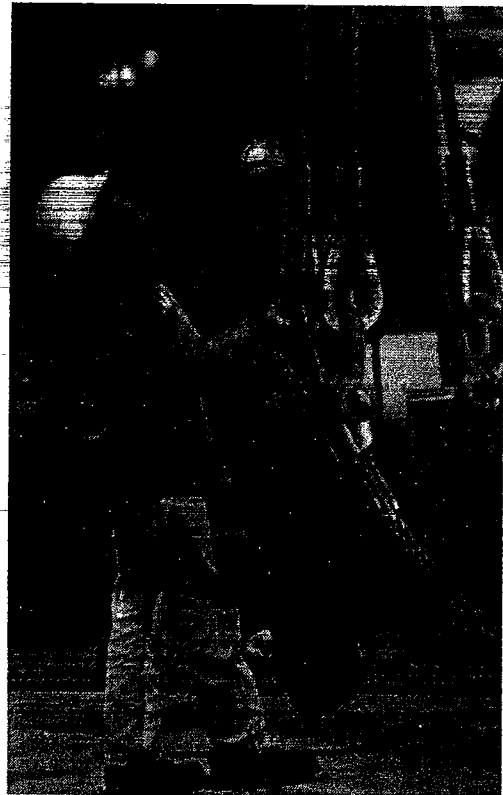
"They actually had an attorney to go through the complicated immigration process," Smith said. That helped when it came to hiring foreign workers, Smith said. "If someone were to come to me at the time and ask, 'What kind of visa do I need to come to this country?' I would have had no idea."

According to a December 2001 contract between Trans Bay and Kota, the employment firm was hired to bring to Napa 10 to 60 skilled welders with about 10 years of experience.

According to a recent Trans Bay lawsuit against Kota, almost a year later Trans Bay received two groups of five workers each. A man who claimed to be a representative of the Thai embassy — complete with business card — showed up in Napa and inspected Trans Bay's facilities.

Then the problems began.

Where'd the money go?



Andrea Roth/Register
Sirchal Surasena, left, guides cables that will lower a piling, made by Trans Bay for the Bay Bridge, onto a barge.

One of the Thai workers almost immediately left Trans Bay and never returned. The other nine didn't have the qualifications Trans Bay expected. In fact, said Kavicky, they had little welding experience whatsoever.

Owing to its need for employees and the hassle of sending the men back overseas, Kavicky decided to train them.

Then in June 2003, Smith noticed problems with Kota's liability insurance policy: It wasn't paid for. At the same time, the Thai workers said Kota hadn't been sending money home to their families, as had been promised.

"That's when we called Kota and asked them what the problem was," Kavicky said.

Kota at first sent documents showing the payments had been made.

But after the workers complained again, Kota couldn't come up with proof their families received any money.

Kavicky canceled Trans Bay's contract with Kota.

"At the bitter end, we found out that not only were their families not getting money, but they (Kota) weren't paying for (the Thai workers') apartments," Kavicky said. "So all the sudden we found out these guys were getting evicted from their apartments."

Kavicky discovered his employees had other financial problems, too. They had paid thousands of dollars to Kota to make the trip to the U.S. and were deeply in debt back in Thailand. To make matters worse, their work visas were about to expire. They needed money to get home.

"We heard how much money they paid to get over here, so we gave them a comparable amount back," Kavicky said, refusing to disclose how much Trans Bay paid.

As far as Kavicky knew at the time, that ended the problems with Kota Manpower.

Slaves in Long Beach

Pornsririrak's problems with Kota began before he had heard of Trans Bay Steel.

When Pornsririrak left Thailand in 2004, Kota Manpower representatives told him he would be paid \$6.75 per hour plus housing, free meals and flight tickets to and from Thailand to the United States.

Later, held captive in a squalid Southern California apartment with no electricity and with his passport taken from him, he said he was forced to renovate a commercial space to build a new Thai restaurant — ripping out old tiles and removing clogged toilets. When the restaurant opened, he became a waiter. Work would start at 9 a.m. and end at 10 p.m.

Pornsririrak was a victim of a practice that affected dozens of his countrymen. Somehow, Smith charges, Kota Manpower copied a signature on the Immigration documents Trans Bay signed to bring over the first group of 10 steel workers, which did not include Pornsririrak. Kota then used it to bring over more people.

According to Smith, Kota used the copy to shuttle 49 Thai nationals to the U.S. and set them to work building two Thai restaurants, called Krug Thai Hut, in Long Beach.

Some workers escaped and eventually sought help with the Thai Community Development Center in Los Angeles. Federal officials stepped in after that, examining Trans Bay's records as part of their investigation. Smith said federal officials found that the Thai workers in Napa never received the money Trans Bay was paying Kota.

"So we wanted to make that right," Kavicky said.

Trans Bay worked with the EEOC to reimburse the workers and find a way to help the Thai laborers who were sent to Long Beach. Kavicky said some were stuck in Southern California with no money or work.

"That's when Trans Bay stood up and said, hey, everybody is here to work, we have work," Kavicky said. "Why don't we take them and train them and put them to work."

Smith said EEOC attorney Anna Park worked to get around immigration roadblocks to enable 22 of the workers, including Pornsririrak, to move to Napa.

"Everyone was offered a job," Kavicky said.

According to the EEOC, the offer included expenses for moving to Napa, sponsorship for their work visas and a housing stipend.

Kavicky said other exploited workers either chose not to come or were prevented by legal obstacles.

He also said none of the original 10 remain on the job. According to Kavicky, the workers drifted off when the financial troubles began to surface, many saying they had friends, relatives or jobs elsewhere.

The last piling

Last week, welder Sirchai Surasena, 35, was among those helping to put the cables in place to lift the cylinder one worker called "Lucky number 13" onto the barge.

"I've learned from my boss and this company," he says. "Here is good. There are nice people here."

Some employees brought cameras and took pictures of the piling and their coworkers. One brought his brother-in-law, a steel worker from China, to watch the action.

It would be the last piling of the project to be shipped off. Up until this load, 79 workers have taken part in the project, as the plant has stayed in operation 24 hours per day, seven days a week, since December 2005.

For Pornsrisirisak and Surasena, the end of the project means a new beginning, but in different places.

Surasena plans to go back to Thailand. Pornsrisirisak will stay, work and live in Napa Valley with his wife and daughter. Now that his family is here, he said, he is happy.